

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(f) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.- .-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.- .- .- .-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... —. —.) means "you should stop or heave to; I am going to board you."

[50 FR 43498, Oct. 25, 1985; 50 FR 45828, Nov. 4, 1985, as amended at 53 FR 24645, June 29, 1988]

§ 285.5 Civil procedures.

(a) The method for assessment of civil penalties for violation of these rules or the Act must be in accordance

with the procedures set forth in 15 CFR part 904.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, authorized officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the Act and this part.

(c) The purchaser must remit the proceeds of any sale made under paragraph (b) of this section to the Director. The Director will deposit and retain the proceeds in the Suspense Account of NMFS (Account No. DO 6875—Phase 19) after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

[50 FR 43398, Oct. 25, 1985, as amended at 53 FR 24645, June 29, 1988; 57 FR 32923, July 24, 1992]

§ 285.6 Civil penalties.

Any person who:

(a) Violates any provisions of § 285.3 (a), (b), or (f) of this part will be assessed a civil penalty of not more than \$25,000 for a first violation and a civil penalty of not more than \$50,000 for any subsequent violation;

(b) Violates any provision of § 285.3 (c) or (d) of this part will be assessed a civil penalty of not more than \$1,000 for a first violation and a civil penalty of not more than \$5,000 for any subsequent violation; or

(c) Violates any provision of § 285.3(e) will be assessed a civil penalty of not more than \$100,000.

[50 FR 43398, Oct. 25, 1985, as amended at 52 FR 25012, July 2, 1987]

§ 285.7 Experimental fishing exemption.

(a) Upon a written request received at least 30 days before the desired effective date, the Director, in order to provide for the conduct of experimental fishing to gather data needed to make management decisions for the Atlantic tuna resources or fisheries, may exempt any person or vessel from specific requirements of this part.

(b) A request for an exemption must be in writing and received by the Director at least thirty (30) days before the desired effective date. The request

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must specify any vessel(s) involved, describe the gear to be used, the manner in which the gear will be fished, the duration of the activity, the area where the activity will be conducted, the species of tuna that will be caught, the anticipated bycatch, the port(s) involved and the disposition of the catch, both domestic and foreign. The request must include any fee specified by the Director pursuant to §285.7(e).

(c) The Director may not grant such exemption unless it is determined that the purpose, design, and administration of the experimental fishing is consistent with the objectives of the management program, ICCAT recommendations, the provisions of the Atlantic Tunas Convention Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the Atlantic tunas resources and fisheries; or

(2) Create significant enforcement problems.

(d) Each vessel participating in any experimental fishing activity is subject to all provisions of this part except those specified in the exemption granted that activity by the Director. The conditions, duration of the experimental fishing, and the provisions of this part to which the exemption applies, will be specified in a letter issued by the Director to each vessel or person participating in the exempted activity. This letter must be carried aboard the vessel conducting the exempted activity. Any exemption authorization that has been altered, erased, or mutilated is invalid. A letter of exemption issued under this part is not transferable or assignable. Any violation of any condition in a letter of exemption shall render it null and void upon receipt of written notification from the Director.

(e) The Director may charge a fee to recover the administrative expenses of issuing a letter of exemption. The amount of the fee will be calculated, at least annually, in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs. Persons seeking an exemption may contact the Director at (301) 713-2334 to

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find out the applicable fee. Failure to pay the fee will preclude issuance of the exemption. Payment by a commercial instrument later determined to be insufficiently funded shall invalidate any letter of exemption.

[58 FR 45290, Aug. 27, 1993]

§285.8 At-sea observer coverage.

(a) Notwithstanding the selection for placement or the placement of on-board fishery observers under the authority of any other Federal statute or fisheries regulation, NMFS may require observers for any vessel engaged in directed fishing for, or incidentally taking, Atlantic tunas at any time.

(b) Owners of vessels selected for observer coverage are required to notify the appropriate Fisheries Science Center Director before commencing any fishing trip that may result in the harvest of any Atlantic tuna. Notification procedures will be specified in selection letters to vessel owners.

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish; and

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

[58 FR 45290, Aug. 27, 1993]